

Message Text

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ORIGIN OPIC-06

INFO OCT-01 NEA-06 ISO-00 L-02 EB-04 AID-05 OMB-01 SP-02

TRSE-00 /027 R

DRAFTED BY OPIC:GC/CSCOLE/L/NEA:SCNELSON/MW

APPROVED BY EB/IFD/OIA:RJSMITH

OPIC/D:EBURTON

EB/IFD/OAI:DHSTEBBING

L/T:MMCQUADE

OPIC/D:RPOATS

NEA/PAB:DBLAKEMORE

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R 152316Z NOV 74

FM SECSTATE WASHDC

TO AMEMBASSY DACCA

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E.O. 11652: N/A

TAGS: EINV, BG

SUBJECT: OPIC AGREEMENT

REF: (A) DACCA 4878; (B) STATE 236876; (C) DACCA 4865

1. WE AGREE TO THE CHANGES IN PARAS 6(A) AND 6(B) OF THE AGREEMENT PROPOSED BY THE BDG (DACCA 4865, PARAS 2C AND 2D). WE UNDERSTAND THE CHANGE SUGGESTED IN DACCA 4865, PARA 2B, TO BE WITHDRAWN.

2. REF A PARA 3. OPIC INTERESTED THAT BDG "ANXIOUS" TO BEGIN NEGOTIATION OF BELBAGCO CLAIM. OPIC HAS NOT YET PAID INVESTOR AND IS THEREFORE NOT YET SUBROGATED TO CLAIM, ALTHOUGH THIS MAY CHANGE IN NEAR FUTURE UNLESS INVESTOR CHOOSES TO ARBITRATE OVER OPIC COMPENSATION AMOUNT. INVESTOR SUBMITTED ITS CLAIM TO BDG IN SPRING 1974. DOES BDG INTEND TO DEAL WITH INVESTOR OR MUST MATTER WAIT UNTIL OPIC IS SUBROGATED?

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3. AS TO SIDE LETTER, WE FIND BDG POSITION REPORTED PARAS 2 AND 3 REF A SOMEWHAT CONFUSING. FIRST, THERE IS PRESENTLY NO CLAIM OR LIABILITY WITH RESPECT TO SQUIBB INVESTMENT; IT WAS MENTIONED TOGETHER WITH BELBAGCO BECAUSE THESE ARE THE ONLY TWO INVESTMENTS IN BANGLADESH PRESENTLY COVERED BY OPIC INSURANCE. SECOND, RE MUSTAFA'S STATED

OBJECTION TO OUR PROPOSED SIDE LETTER, WE NOTE THAT TEXT CONTAINED PARA 4 REF B DID NOT RPT NOT CONTAIN ANY QUOTE RECOGNITION UNQUOTE BY BDG OF ANY AGREEMENT BETWEEN U.S. AND PAKISTAN, NOR WAS THIS USG OBJECTIVE IN PROPOSING TEXT OF SIDE LETTER. PROPOSED EXCHANGE WOULD SIMPLY PUT OPIC PROGRAM ON A REASONABLE AND BUSINESSLIKE (AND PUBLICLY DEFENSIBLE) BASIS BY PROVIDING THAT U.S.-INSURED SQUIBB AND BELBAGCO INVESTMENTS WILL BE COVERED BY PROCEDURES AND SUBSTANTIVE TERMS OF NEW USG-BDG AGREEMENT. PROPOSED AGREEMENT TO NEGOTIATE, ON THE OTHER HAND, WOULD NOT PROVIDE RECOGNITION OF SUBROGATION AND CURRENCY-USE RIGHTS, NOR FOR ARBITRATION OF DISPUTES.

4. IF SIMPLER FORMULATION OF LETTERS WOULD BE EASIER FOR BDG, SUGGEST FOLLOWING: QUOTE I REFER TO OUR PAST DISCUSSIONS AND THE INVESTMENT INCENTIVE AGREEMENT TO BE SIGNED TODAY BETWEEN OUR TWO GOVERNMENTS. IT IS THE UNDERSTANDING OF MY GOVERNMENT THAT THE TERMS OF THAT AGREEMENT SHALL BE DEEMED TO APPLY TO (1) THE INVESTMENT OF E.R. SQUIBB AND SONS, INC. IN SQUIBB OF BANGLADESH, LTD. AND (2) THE INVESTMENT OF BELBAGCO, INC. IN BANGLADESH FABRICS CO., LTD. I WOULD APPRECIATE YOUR CONFIRMATION THAT THIS IS ALSO THE UNDERSTANDING OF THE GOVERNMENT OF BANGLADESH. UNQUOTE. KISSINGER

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